

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of:)	
)	Confirmation No. 5724
Christopher W. Blenk)	
)	Art Unit: 3623
Application Number: 09/678,313)	
)	Examiner: Tarae, Catherine Michelle
Filed: October 3, 2000)	
)	Customer No. 21967

For: SYSTEM AND METHOD FOR AUTOMATED,
READER-BASED FILTRATION OF LITERARY
WORKS AT INTERNET-RELATED SUBMISSION SITES

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Commissioner for Patents
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REPLY BRIEF

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In response to the Examiner's Answer of April 10, 2007, appellant respectfully requests that the Board of Patent Appeals and Interferences reconsider and withdraw the rejections of record, and allow the pending claims.

I. Status of Claims

Claims 1-36 are pending in this application. All of these claims are currently rejected.

The rejection of claims 1-36 is appealed.

II. Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection to be reviewed on appeal are as follows:

- 1) The rejection under 35 U.S.C. § 103(a) of claims 1-5, 8-12, 15-19, 22-26, 35 and 36 based on U.S. Patent No. 6,260,064 to Kurzrok ("Kurzrok") in view of U.S. Patent No. 6,948,069 to Teppler ("Teppler").
- 2) The rejection under 35 U.S.C. § 103(a) of claims 6, 7, 13, 14, 20, 21 and 27-34 over Kurzrok in view of Teppler, and U.S. Patent No. 6,473,084 to Phillips et al. ("Phillips").

III. Argument

The Examiner's Answer's attempt to make the disclosures of Kurzrok combined with the disclosures of Teppler meet the limitations of the present invention continues to be unsuccessful. Furthermore, the Examiner's Answer continues to rely upon a motivation to combine Kurzrok with Teppler to provide the "security means" limitation that is impermissible.

- A. Kurzrok and Teppler fail to disclose "criteria determination means for determining whether the portion of the work meets *predetermined reader-satisfaction criteria*" from claim 1 or "determining whether the portion of work meets *predetermined reader-satisfaction criteria*" from claim 15

Kurzrok does not disclose "criteria determination means for determining whether the portion of the work meets *predetermined reader-satisfaction criteria*." The Examiner's Answer asserts that "Kurzrok provides examples of rating categories such as 'excellent,' 'good,' 'fair,' or 'no-value,' where such categories provide a measure of predetermined reader-satisfaction. Figures 4B-4C further illustrate a breakdown of the ratings by the type of reader, showing the percentages of how different types of readers were satisfied with the advertisements." Examiner's Answer, page 12. At most, Kurzrok discloses ratings based on various levels of reader satisfaction. Kurzrok fails to disclose a pre-set amount including a percentage of reviews necessary to maintain showcase of a portion of work that was determined prior to the showcase of that portion of work. Indeed, Kurzrok merely discloses percentages indicating the amount of reviews agreeing with a particular level of satisfaction.

Furthermore, the Examiner's Answer asserts that "Kurzrok discloses tracking the number of reviews received for each work and using the number to assign weights and calculate the ratings at regular intervals. Thus, a predetermined number of reviews are used prior to determining (or performing the calculation of) reader-satisfaction." Examiner's Answer, page

16. The number of reviews relied upon by the Examiner's Answer, however, is not predetermined. Indeed, the number of reviews disclosed by Kurzkrook is the number of reviews submitted by various reviewers, however random the number may be. Therefore, Kurzkrook, at most describes a rating of an article of work, as opposed to, determining whether a predetermined reader-satisfaction criteria is met.

B. Kurzkrook and Teppler fail to disclose "... a security means for implementing at least one security mechanism to limit the ability of users to misappropriate credit for *the portion of work* ..." from claim 1 or "... implementing at least one security mechanism to limit the ability of users to misappropriate credit for *the portion of work* ..." from claim 15

Kurzkrook does not disclose "... a security means for implementing at least one security mechanism to limit the ability of users to misappropriate credit for *the portion of work*" The system's ability to showcase a *portion* of a literary work by an author to provide an author with reader feedback without having to write a complete literary work is being claimed. Neither Kurzkrook nor Teppler disclose the portion of work limitation recited in the claims of the present invention. At most, Kurzkrook discloses ratings for complete articles and/or complete advertisements. Indeed, Kurzkrook and Teppler are not directed to portions of literary works, and therefore, fail to disclose such a limitation.

C. The proposed combination of Kurzkrook and Teppler to provide the "security means" limitation is improper and flawed

The Examiner's Answer's motivation to combine Kurzkrook with Teppler to meet the "security means" limitation continues to rely upon improper hindsight reconstruction. Indeed, the Examiner's Answer admits this deficiency when it asserts that "it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning." Examiner's Answer, page 14. This reasoning is fatally flawed. It is well established


that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)." M.P.E.P. § 2143.01. Therefore, the motivation to combine is admittedly improper and flawed.

IV. Conclusion

In view of the foregoing, appellant respectfully requests that the Board reverse the prior art rejections set forth in the Action, and allow all of the pending claims.

Respectfully submitted,

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